

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

MICHAEL V. FOWLER
a/k/a MICHAEL W. SMITH

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)

Judge
Magistrate Case NO.

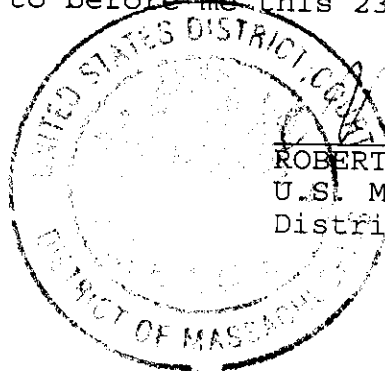
04-0457 RBC

AFFIDAVIT

I, Michael Oppenheim, Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, do hereby make oath before Robert B. Collings, United States Magistrate Judge for the District of Massachusetts, that in my official capacity I was advised of the existence of a warrant for the arrest of MICHAEL V. FOWLER a/k/a MICHAEL W. SMITH. Said warrant was issued on January 16, 2004 in the District of Maine for violations of 18 U.S.C. § 922(g)(1) and § 924(a)(2) (felon in possession of firearms and ammunition) and 42 U.S.C. § 408(a)(7)(B) (Social Security Number Misuse). I do hereby make oath that on January 22, 2004 I executed said warrant by arresting MICHAEL V. FOWLER a/k/a MICHAEL W. SMITH in the District of Massachusetts and that the above-referenced complaint remains outstanding in the District of Maine.

[Signature]
MICHAEL OPPENHEIM
Special Agent, Bureau of
Alcohol, Tobacco and Firearms

Subscribed and sworn to before me this 23rd day of January, 2004.



[Signature]
ROBERT B. COLLINGS
U.S. Magistrate Judge
District of Massachusetts

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

UNITED STATES OF AMERICA)

v.)

MICHAEL V. FOWLER)

a/k/a)

Michael W. Smith)

Magistrate Case No. 04-3-M

COMPLAINT FOR VIOLATION OF
Title 18, U.S.C. §§ 922(g)(1) & 924(a)(2)
(Felon-in-Possession); Title 42, U.S.C.
§408(a)(7)(B) (Social Security Number
Misuse)

The undersigned complainant, being duly sworn, states:

COUNT ONE

That on or about December 8, 2002, in the District of Maine, defendant

MICHAEL V. FOWLER

a/k/a

Michael W. Smith

having been convicted of a crime which under the laws of the Commonwealth of Massachusetts
were then punishable by imprisonment for a term exceeding one year, specifically:

Unlawful Possession and Sale of Firearms, Suffolk Superior Court, August 14, 1998,
Docket #SUCR1997-10590;

knowingly possessed in and affecting commerce, a Glock Model 21, .45 caliber pistol, serial
number ABS441US.

In violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

A TRUE COPY

COUNT TWO

That on or about August 22, 2002, in the District of Maine, defendant

MICHAEL V. FOWLER
a/k/a
Michael W. Smith

in a matter within the jurisdiction of the United States Social Security Administration and for the purpose of obtaining a Maine Drivers License Number 8540246, and with intent to deceive, falsely represented that Social Security Account Number 043-28-3225 was the Social Security Account Number assigned to him by the Commissioner of Social Security, whereas, in truth and in fact, as the defendant well knew, that number was not his Social Security Account Number.

In violation of Title 42, United States Code, Section 408(a)(7)(B).

The complainant states that this complaint is based on the attached affidavit, which is incorporated by reference herein.



Signature of Complainant

SWORN AND SUBSCRIBED TO before me
this 16th day of January, 2004


MARGARET J. KRAVCHUK
UNITED STATES MAGISTRATE JUDGE

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Brent McSweyn, do hereby depose and say that I am a Special Agent with the Bureau of Alcohol, Tobacco and Firearms and have been so employed for fourteen (14) years. I am currently assigned to the United States Attorney's Office Violent Crime Task Force (VCTF) in Bangor, Maine.

I write this affidavit in support of a criminal complaint for a violation of Title 18, U.S.C., Section 922 (g)(1) and 42 U.S.C. 408 (a)(7)(b). I have obtained the information contained in this affidavit from ATF Special Agent Michael Oppenheim and through my own involvement with this investigation.

1. On January 15, 2003, Kareem Taylor was arrested by the Boston Police in Roxbury, MA, for unlawful possession of a Glock Model 21, .45 caliber semiautomatic pistol with an obliterated serial number.
2. On May 30, 2003, the unique portion of the serial number was raised off of the slide and barrel by Boston Police Department (BPD) Senior Criminalist Eileen Walsh to read "ABS441".
3. On September 4, 2003, S/A Oppenheim spoke to Ed Silvey, who is employed by Glock Inc., in Smyrna, GA. Ed Silvey told S/A Oppenheim that Glock pistols which are imported into the United States are serialized in three locations; the barrel, slide, and on a metal plate affixed to the frame. Glock produces each firearm with a unique serial number that matches in all three locations, with the following exception. The frame-mounted serial number includes the characters "US" as the last two digits of the serial number. Therefore, the firearm with "ABS441" on the barrel and slide would have a frame-mounted serial number of "ABS441US." Ed Silvey also stated that serial number "ABS441" was not used on any other firearm produced by Glock.
4. On September 5, 2003, S/A Oppenheim requested that BPD Senior Criminalist Walsh reexamine the firearm relative to the frame plate, and in a later report, Senior Criminalist Walsh confirmed that the frame plate had been removed.
5. A trace request was submitted to the ATF National Tracing Center (NTC) to determine the original purchaser of the Glock, Model 21, .45 cal. pistol bearing serial number ABS441US. S/A Oppenheim later reviewed a report from the ATF NTC, which stated that John Clough of Lamoine, ME, purchased the aforementioned Glock pistol on March 10, 1993.

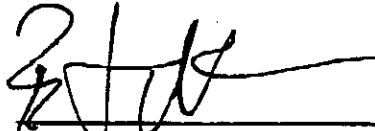
6. On August 25, 2003, S/A Oppenheim spoke to John Clough on the telephone. Mr. Clough told S/A Oppenheim that he sold the Glock pistol to "Michael Smith" on December 7 or 8, 2002.
7. S/A Oppenheim spoke to ATF S/A Dan Campbell. S/A Campbell stated that he has previously investigated Michael Fowler for purchasing firearms in the State of Maine and trafficking them to Massachusetts. S/A Campbell stated that Fowler used the name Michael Smith as an alias during his investigation.
8. S/A Oppenheim checked with the Middlesex (MA) County Probation Department, where Michael Fowler was on probation for firearms trafficking and learned that Fowler lists his address as 62 Nahunt Street in Lynn, MA.
9. On October 27, 2003, S/A Oppenheim went to 62 Nahunt Street in Lynn, MA. S/A Oppenheim saw a black 1999 Chevrolet Cavalier bearing Maine Tag 8954LH parked in the driveway of the building. S/A Oppenheim checked with the Maine Department of Motor Vehicles and found that the car was registered to Michael W. Smith.
10. On October 27, 2003, S/A Oppenheim interviewed Jeff Conti, the owner and landlord of 62 Nahunt Street, Lynn, MA. S/A Oppenheim showed a photograph of Michael Fowler to Mr. Conti. Mr. Conti stated that he recognized the person in the photograph as an individual whom he knew as "Michael Smith" who was a current tenant in his building. Mr. Conti stated that "Michael Smith" told him that he resides part time in the State of Maine. Mr. Conti stated that the 1999 black Chevrolet Cavalier that S/A Oppenheim saw in the driveway of his building belonged to "Michael Smith".
11. On September 3, 2003, S/A McSweyn and S/A Oppenheim interviewed John Clough at his residence in Hancock, ME. Mr. Clough stated that he had placed a "for sale" advertisement for the firearm in the "Uncle Henry's" trade publication. He was later contacted by an individual who identified himself as "Michael Smith", who expressed an interest in purchasing his pistol. On December 8, 2002, an individual who identified himself as "Michael Smith" came to his residence in Hancock, ME. This individual arrived at his residence in a pickup truck bearing Massachusetts tags. He sold his Glock pistol to this individual. The purchaser provided him with a Maine Driver's license. He recorded the address from the license on a receipt he prepared. The purchaser signed the receipt using the name "Michael Smith".
12. Mr. Clough provided S/A Oppenheim with this receipt, which lists the firearm, serial number ABS441US, and the amount of the sale for the transaction. The receipt is signed by "Michael W. Smith", and also includes a Maine address.
13. Mr. Clough described the appearance of the purchaser of the firearm in a manner consistent with Fowler's physical description. S/A Oppenheim showed Mr. Clough a

six-person photo line up that included a photograph of Fowler. Mr. Clough was unable to identify Fowler's photograph as the purchaser of his firearm.

14. At the conclusion of the interview with John Clough, S/A McSweyn and S/A Oppenheim interviewed, John Clough's wife, Carolyn Clough, who was present when the individual who identified himself as "Michael Smith" purchased the firearm from her husband. S/A Oppenheim isolated Carolyn Clough from John Clough and showed her a six-person photo array that included a photograph of Fowler. Carolyn Clough identified the photograph of Fowler as the purchaser of her husband's Glock Model 21, .45 caliber pistol, bearing serial number ABS441US.
15. S/A Oppenheim has examined photo identification cards issued by the State of Massachusetts for Michael Fowler and Michael Smith and has found the photographs on these identification cards to be of the same person. S/A Oppenheim found that the Massachusetts driver's license for Michael W. Smith bears social security number of 043-28-3225. The Maine driver's license for Michael W. Smith, number 8540246, also bears the same social security number.
16. On October 21, 2003, S/A Oppenheim spoke with S/A Joseph DeSantis of the Office of the Inspector General, Social Security Administration (SSA). S/A DeSantis stated that he had checked SSA databases and found that SSN 043-28-3225 was assigned to Anne P. Walpole in May of 1952. SSA records show Anne Walpole died on October 21, 1999. S/A DeSantis stated that SSN 043-28-3225 has not been assigned to Michael W. Smith. S/A DeSantis stated that SSA records show that Michael V. Fowler has been issued SSN 006-62-3515.
17. On December 9, 2003, S/A Oppenheim spoke to S/A DeSantis. S/A DeSantis stated that he went to Bournival Chrysler in Portsmouth, NH and met with the car dealership's comptroller, Kathy Casey. Ms. Casey told S/A DeSantis that an individual who had identified himself as Michael Smith had purchased a 2003 Jeep Wrangler Rubicon from the dealership. During the sale of the vehicle, the individual had presented a Maine driver's license, bearing the name Michael W. Smith, license number 8540246 and a social security card bearing the name Michael William Fowler-Smith, SSN 043-28-3225. Ms. Casey provided S/A DeSantis with photocopies of these cards. S/A DeSantis examined the photocopy of the Maine driver's license for Michael W. Smith and found that the photograph was of Michael Fowler wearing glasses.
18. S/A Oppenheim reviewed records from the State of Massachusetts Superior Court, docket number SUCR1997-10590. The records show that Michael Fowler was convicted of six counts of possession of a firearm without a license and one count of selling unlicensed firearms, all felony violations, on August 14, 1998.
19. On November 3, 2003, S/A Philip Ball determined that the Glock, Model 21, .45 cal. pistol, bearing serial number ABS441US was not manufactured in the State of Maine.

20. Based on the foregoing, I believe that there is probable cause to believe that Michael Fowler, after having been convicted of a felony punishable by a term of imprisonment exceeding one year, knowingly possessed a firearm in and affecting interstate commerce, in violation of Title 18, United States Code, Section 922(g)(1), and to have fraudulently used a Social Security number in violation of Title 42, United States Code, Section 408(a)(7)(b) in the Judicial District of Maine.

Dated: January 16, 2004


Brent McSweyn, Special Agent
Bureau of Alcohol, Tobacco,
Firearms and Explosives


STATE OF MAINE

Penobscot, ss.

January 16, 2004

Personally appeared before me the above-named Brent McSweyn and made oath as to the truth of the foregoing affidavit signed by him.

Before me,


Margaret J. Kravchuk
United States Magistrate Judge

AO 442 (Rev. 5/93) Warrant for Arrest

United States District Court

DISTRICT OF MAINE

UNITED STATES OF AMERICA

WARRANT FOR ARREST

V.
MICHAEL V. FOWLER
a/k/a Michael W. Smith

CASE NUMBER:

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest MICHAEL V. FOWLER, a/k/a Michael W. Smith, DOB: 08/03/1970
Name

and bring him or her forthwith to the nearest magistrate judge to answer a(n)


☐ Indictment ☐ Information ☒ Complaint ☐ Order of court ☐ Violation Notice ☐ Probation Violation Petition

charging him or her with (brief description of offense)
Felon in Possession and Social Security Account Number Misuse

In violation of Title 18 United States Code, Section(s) 922(g)(1); 924(a)(2); and Title 42 Sec. 408(a)(7)(B)

Margaret J. Kravchuk

Name of Issuing Officer


Signature of Issuing Officer

United States Magistrate Judge

Title of Issuing Officer

01-16-2004 Bangor, Maine

Date and Location

A TRUE COPY

ATTEST: William S. Brownell, Clerk

By 

Deputy Clerk

Name of Judicial Officer

Bail fixed at \$ _____ by _____

RETURN

This warrant was received and executed with the arrest of the above-named defendant at _____

DATE RECEIVED

NAME AND TITLE OF ARRESTING OFFICER

SIGNATURE OF ARRESTING OFFICER

** TOTAL PAGE.08 **